

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BONNIE SCHNEIDER,

ECF CASE

Plaintiff,

ANSWER

-against-

CUDDEBACKVILLE FIRE DEPARTMENT,
CUDDEBACKVILLE FIRE DISTRICT,
TOWN OF DEERPARK, CHRIS SIBILIA,
sued in his individual capacity,

11 CIV 1499 (KMK)

Defendant Demands
Trial by Jury

Defendants.

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The defendant, CHRIS SIBILIA, by his attorney, ROBERT N. ISSEKS, as and for his answer to the complaint herein, set forth the following:

1. Denies the allegations contained in ¶¶16, 18, 25, 32, 34 and 35 of the complaint.
2. Admits the allegations contained in ¶¶3, 4, 5 and 6 of the complaint.
3. Denies knowledge or information sufficient to form a belief as to the allegations contained in ¶¶2, 8, 9, 12, 21, 22, 23, 24, 26, 28 and 30 of the complaint.
4. Denies the allegations contained in ¶1 to the extent that they imply that there was, in fact, any hostile environment or retaliation.
5. Denies the allegations contained in ¶13 except admits that members of the Department went to a local pizza parlor in June 2009.

6. Denies knowledge or information sufficient to form a belief as to the allegations contained in ¶14 except denies the remarks and conduct attributed to defendant Sibilia.

7. Denies the allegations contained in ¶15 except admits that plaintiff's Jeep broke down and that defendant Sibilia was sent over to drive plaintiff home and that Sibilia drove plaintiff to the firehouse.

8. Denies the allegations contained in ¶17, except admits that the Department responded to a fire on Oakland Valley Road and that defendant Sibilia asked plaintiff to help him with the paperwork.

9. Denies knowledge or information sufficient to form a belief as to the allegations contained in ¶19, except denies that there was any sexual harassment.

10. Admits the allegations contained in ¶20 except that defendant Sibilia was forced to resign and he denies that he admitted that plaintiff's allegations against him were true.

11. Denies knowledge or information sufficient to form a belief as to the allegations contained in ¶27 except admits that there was a vote on December 3, 2009.

12. Denies knowledge or information sufficient to form a belief as to the allegations contained in ¶29 except admits that defendant Sibilia was promoted to Captain and that Robert Cromie stepped down from Assistant Chief to firefighter.

13. The allegations contained in ¶¶7, 10, 11 and 31 are neither admitted nor denied because they assert positions of law rather than matters of fact.

FIRST AFFIRMATIVE DEFENSE

14. The complaint fails to state a claim upon which relief can be granted against the defendant Sibilia.

SECOND AFFIRMATIVE DEFENSE

15. The complaint does not set forth facts sufficient to constitute deprivation(s) of any constitutional rights or other basis for a civil rights claim.

THIRD AFFIRMATIVE DEFENSE

16. Defendant Sibilia was at all times acting reasonably, in good faith, without malice, within the bounds of lawful means and dictates and in such capacity whereby he is entitled to all relevant and available immunities, including qualified immunity.

FOURTH AFFIRMATIVE DEFENSE

17. Whatever damages were sustained by the plaintiff were in whole or in part the result of the plaintiff's own voluntary and/or culpable conduct.

FIFTH AFFIRMATIVE DEFENSE

18. Any claims set forth in the plaintiff's complaint as against the defendant Sibilia are barred by virtue of the plaintiff's failure to pursue and exhaust her contractual, administrative and/or policy remedies prior to the commencement of this action.

SIXTH AFFIRMATIVE DEFENSE

19. Defendant Sibilia has not acted in willful disregard of the plaintiff's rights and plaintiff is therefore not entitled to punitive damages.

SEVENTH AFFIRMATIVE DEFENSE

20. Plaintiff has failed to mitigate her damages.

WHEREFORE, defendant Sibilia demands judgment dismissing the complaint, together with costs and disbursements and reasonable attorneys' fees, and such other and further relief as the Court may deem just and proper.

Dated: Middletown, New York
July 8, 2011



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Cuddebackville Fire Department and
Cuddebackville Fire District

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BONNIE SCHNEIDER,

Plaintiff,

VERIFICATION

-against-

11 CIV 1499 (KMK)

CUDDEBACKVILLE FIRE DEPARTMENT,
CUDDEBACKVILLE FIRE DISTRICT,
TOWN OF DEERPARK, CHRIS SIBILIA,
sued in his individual capacity,

Defendants.

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State of New York, County of Orange ss.:

CHRIS SIBILIA, being duly sworn, deposes and says:

That he is a defendant herein; that he has read the foregoing answer and knows the content thereof; that same is true upon his personal knowledge or upon information and belief.


CHRIS SIBILIA

Sworn to before me this
8th day of July, 2011

Linda C. Vanderbeck

LINDA C. VANDERBECK
Notary Public, State of New York
No. 01VA4953669
Qualified in Ulster County
Commission Expires July 24, 2013